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USDS SDNY	JUN 9 - 2010
DOCUMENT	CHAMBERS OF
ELECTRONICALLY FILED	COLLEEN McMAHON
DOC #: _____	
DATE FILED: _____	6/11/10

MEMO ENDORSED

VIA FAXSIMILE (212) 805-6326

Honorable Colleen McMahon
United States District Judge
United States District Court
for the Southern District of New York
500 Pearl Street
New York, NY 10007

June 9, 2010

ED: 6/11/10

June 9, 2010

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Re: **Shajan v. Barolo, Ltd., 10-cv-1385 (CM)**

Dear Judge McMahon:

Barolo, Ltd. and Paulo Secondo (collectively, "Defendants") have recently retained this firm to represent them in connection with the above-referenced matter. On May 10, 2010, this firm filed a Notice of Substitution of Counsel with the Court. We reviewed Your Honor's June 2, 2010 Memorandum Order Granting Plaintiffs' Motion for Conditional Collective Action Certification pursuant to 29 U.S.C. § 216(b) ("Order") and recognize that Your Honor has, *inter alia*, ordered Defendants to produce a list of names and addresses of putative collective action members and has authorized Plaintiffs' counsel to disseminate a notice of the lawsuit to the putative collective action members. For the reason addressed below, we respectfully request that Your Honor temporarily adjourn the deadlines contained in the Order.

Since Defendants retained this firm the parties have been engaging in good-faith settlement negotiations and the parties collectively believe that the best way to continue with these discussions is to temporarily adjourn the deadlines contained in Your Honors' Order. In order to preserve the rights of the putative collective action members, Defendants have agreed to toll the statute of limitations for all putative collective action members who elect to opt-in to this action, with respect to their claims under the Fair Labor Standards Act until the conclusion of these settlement negotiations. Accordingly, no putative collective action member will be prejudiced by this adjournment. Plaintiffs' counsel has reviewed this letter and consents to this request.



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If Your Honor accepts the aforementioned procedure, the parties respectfully suggest that the Court schedule a status conference during the second week of August to discuss the progress of the parties' settlement negotiations. If the parties are unable to reach a settlement by the date of the conference then the parties respectfully request that the Court enter the following deadlines:

- Defendants shall provide Plaintiffs with a list of all waiters/waitresses, servers, bartenders, barbacks and buspersons who were employed by Barolo at any point during the last three years, in accordance with the Court's Order, by August 27, 2010.
- Plaintiffs shall provide Defendants with a list identifying each employee who they believe wrongfully participated in the tip pool, in accordance with the Court's Order, by September 15, 2010.
- Defendants shall submit sworn affidavits describing the job duties of the individuals identified by Plaintiffs, in accordance with the Court's Order, by October 6, 2010.

Additionally, the parties will begin drafting a comprehensive confidentiality order, which, *inter alia*, addresses Plaintiffs' use of the collective action members' social security numbers, in accordance with the Court's Order and submit it to the Court for approval by June 30, 2010. If the parties do reach an agreement prior to the proposed August status conference, we will notify the Court forthwith. We thank the Court for its attention to this matter.

Respectfully submitted,

Carolyn D. Richmond

cc: D. Maimon Kirschenbaum, Esq.